

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	Case No. 1:93 CR 321
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
DONALD RAY WILLIAMS,)	
)	
Defendant.)	

On September 8, 1995, Defendant was found guilty on five counts of knowing and intentional distribution of cocaine and/or cocaine base (“crack-cocaine”) in violation of 21 U.S.C. §841(a)(1) and (b)(1), and 18 U.S.C. §2. (Doc #: 86.) Defendant was sentenced to 327 months in prison, five years of supervised release, and a fine of \$10,000. (Doc #: 88.)

Defendant subsequently faced trial in the Cuyahoga County Court of Common Pleas (*State of Ohio v. Williams*, Case No. 94-315917). On October 26, 1995, a jury found Defendant guilty of murder, in violation of O.R.C. §2903.02, and of two counts of having a weapon while under disability, in violation of O.R.C. §2922.13. (Doc #: 148-1 at 6.)

On December 7, 2010, Defendant, pursuant to Federal Rule of Civil Procedure 60(b)(6), filed the instant Motion for Relief from Judgment (**Doc #: 148**)¹ seeking for his sentence to be altered pursuant to the current Sentencing Guidelines for distribution of cocaine

¹This matter was transferred from the Hon. Kathleen O’Malley to the undersigned on April 5, 2011 prior to adjudication of the Motion.

and/or crack-cocaine and requesting that his federal sentence be served concurrently with his state sentence.

Federal Rule of Civil Procedure 60(b) provides civil litigants a basis to move for relief from judgment. “As a rule of civil procedure, Rule 60(b) applies to civil proceedings, proceedings authorized under Rule 81, and habeas proceedings which are civil in nature.”

United States v. Gibson, No. 10-5231, 2011 WL 2008308, at *2 (6th Cir. May 24, 2011)

(citations omitted). However, Rule 60(b) is not applicable to criminal proceedings and, therefore, cannot serve as the basis for relief from a criminal sentence or conviction. *Id.* at *3;

United States v. Diaz, 79 Fed. App’x 151, 152 (6th Cir. 2003). Accordingly, Defendant’s Motion for Relief from Judgment must be **DENIED**.

IT IS SO ORDERED.

/s/ Dan A. Polster June 8, 2011
Dan Aaron Polster
United States District Judge